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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/541,460	03/31/2000	John R. Stice	98-035	3659

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EXAMINER

PHAN, TRONG Q

ART UNIT

PAPER NUMBER

2818

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Please find below and/or attached an Office communication concerning this application or proceeding.



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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Paper No. 10

Application Number: 09/541,460
Filing Date: March 31, 2000
Appellant(s): STICE, JOHN R.

CONRAD O. GARDNER
For Appellant

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JAN 02 2003
GROUP 2800

EXAMINER'S ANSWER

This is in response to the appeal brief filed November 8, 2002.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is incorrect. A correct statement of the status of the claims is as follows: claim 3 should be rejected claim not cancelled claim because the amendment after final rejection of May 13, 2001, paper 5, has not been entered.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

The appellant's statement in the brief that certain claims do not stand or fall together is not agreed with because it does not include claim 3.

(8) Claims Appealed

A substantially correct copy of appealed claims 1-2, 4-5 and 7-8 appears on pages 8-10 of the Appendix to the appellant's brief. The minor error is as follows: it does not include claim 3.

(9) Prior Art of Record

5,612,698	REAY	3-1997
5,812,077	BOIE	9-1998

6,081,215	KOST ET AL.	6-2000
6,215,433	SONU ET AL.	4-2001
4,736,189	KATSUMATA ET AL.	4-1988
3,713,023	METCALF ET AL.	1-1973
3,790,947	CAMPBELL ET AL.	2-1974
3,792,352	METCALF ET AL.	2-1974
3,877,022	LEHMAN ET AL.	4-1975
4,183,016	SAWAGATA	1-1980
5,250,948	BERNSTEIN ET AL.	10-1993
5,608,399	COLEMAN, Jr.	3-1997

(10) Grounds of Rejection

The following ground(s) of rejections are applicable to the appealed claims:

- a) Claims 7-8 are rejected under 35 U.S.C. 112, first paragraph.
- b) Claims 1-2, 4-5 and 7-8 are rejected under 35 U.S.C. 112, second paragraph.
- c) Claim 3 is rejected under 35 U.S.C. 103 (a) as being unpatentable over Katsumata et al., 4,736,189.

These above rejections are set forth in prior Office Action, Paper No. 5.

(11) Response to Argument

- a) Regarding the rejection of claim 7 under 35 U.S.C. 112, first paragraph:

Appellant's arguments are not persuasive because: all the labels in Fig. 3 of Appellant's invention, which is seen to be the best Figure to read on claim 7, is not described in the specification; the hysteresis is not shown in any of the drawings of the

appealed invention; the analog to digital converter used to perform all the steps in method claim 7 is not shown in the drawings and is described in the specification of the appealed invention. Therefore, the rejection of claim 7 under 35 U.S.C. 112, first paragraph, is still proper and is sustained.

b) Regarding the rejection of claim 8 under 35 U.S.C. 112, first paragraph:

Appellant's arguments are not persuasive because: the method claim 8 is seen to be described in lines 12-16 of page 5 of the specification which is under the **BACKGROUND OF THE INVENTION**. Therefore, it is not understood that this description is belonged to the prior art or to the present appealed invention. Furthermore, all Figures 1-7 of the appealed invention are not seen to be possibly able to provide all the steps as recited in claim 8. Specifically, a reference voltage, a mathematically-derived reference voltage, the circuit's input voltage, the means for converting, the means for subtracting and the means for adding as recited in appealed claim 8 are not read on in any of Figures 1-7 of the present appealed invention. Therefore, the rejection of claim 8 under 35 U.S.C. 112, first paragraph, is still proper and is sustained.

c) Regarding the rejection of claims 1-2, 4-5 and 7-8 under 35 U.S.C. 112, second paragraph, the rejection of claim 3 under 35 U.S.C. 103(a) as being unpatentable over Katsumata et al., 4,736,189, and the objection of claim 6 to be allowable if rewritten in independent form:

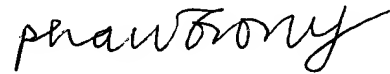
The amended claims 1-2 and 4-6 and the cancellation of claim 3 as proposed in Appellant's amendments after Final rejection of May 28, 2002, paper 6, have been

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considered to overcome all the above rejections and objection. Claims 1-2 and 4-6 are allowable. However, Appellant's amendments after Final rejection of May 28, 2002, paper 6, has not been entered for the reasons as set forth in items 2(a) and 2(c) of the Advisory Action of June 18, 2002, paper 7.

For the above reasons, it is believed that the rejections of claims 7-8 under 35 U.S.C. 112, first paragraph, should be sustained.

Respectfully submitted,



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PRIMARY EXAMINER**

December 19, 2002

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